

the end-user, along with any special conditions imposed within a specific License Exception.

(ii) You may meet the conditions for more than one License Exception. Moreover, although you may not qualify for some License Exceptions you may qualify for others. Review the broadest License Exceptions first, and use any License Exception available to you. You are not required to use the most restrictive applicable License Exception. If you fail to qualify for the License Exception that you first consider, you may consider any other License Exception until you have determined that no License Exception is available.

(iii) License Exceptions TMP, RPL, BAG, AVS, GOV, and TSU authorize exports notwithstanding the provisions of the CCL. List-based License Exceptions (LVS, GBS, CIV, TSR, and CTP) are available only to the extent specified on the CCL. Part 740 of the EAR provides authorization for reexports only to the extent each License Exception expressly authorizes reexports. License Exception APR authorizes reexports only.

(4) *Step 23: Scope of License Exceptions.* Some License Exceptions are limited by country or by type of item.

(i) Countries are arranged in country groups for ease of reference. For a listing of country groups, please refer to Supplement No. 1 to part 740 of the EAR. Unless otherwise indicated in a License Exception, License Exceptions do not apply to any exports or reexports to embargoed destinations. If your export or reexport is subject to General Prohibition Six (Embargo) for embargoed destinations, License Exceptions are only available to the extent specifically provided in part 746 of the EAR concerning embargoed destinations.

(ii) Special commodity controls apply to short supply items. No License Exceptions described in part 740 of the EAR may be used for items listed on the CCL as controlled for Short Supply reasons. License Exceptions for short supply items are found in part 754 of the EAR.

(5) *Step 24: Compliance with all terms and conditions.* If a License Exception is available, you may proceed with your

export or reexport. However, you must meet all the terms and conditions required by the License Exception that you determined authorized your export or reexport. You must also consult part 758 and 762 of the EAR to determine your recordkeeping and documentation requirements.

(6) *Step 25: License requirements.* If no License Exception is available, then you must either obtain a license before proceeding with your export or reexport or you must refrain from the proposed export or reexport.

(7) *Step 26: License applications.* If you are going to file a license application with BXA, you should first review the requirements at part 748 of the EAR. Exporters, reexporters, and exporters from abroad should review the instructions concerning applications and required support documents prior to submitting an application for a license.

[61 FR 12740, Mar. 25, 1996, as amended at 61 FR 64274, Dec. 4, 1996]

### **§ 732.5 Steps regarding Shipper's Export Declaration, Destination Control Statements, record keeping, license applications, and other requirements.**

(a) *Step 27—Shipper's Export Declaration.* You should review § 758.3 of the EAR to determine what notations you must enter on the Shipper's Export Declaration (SED). These steps should be reviewed by exporters. Reexporters and firms exporting from abroad may skip Steps 27 through 29 and proceed directly to § 732.6 of this part.

(1) *NLR.* The term "NLR" represents exports of listed items when no license is required. Such exports do not require that you qualify for a License Exception. The symbol "NLR" is required on the SED under two circumstances. First, NLR is the correct symbol when exporting an item subject to the EAR not listed on the CCL. Such items are classified EAR99. Secondly, certain items are listed on the CCL but do not require a license to all destinations under General Prohibitions One (Exports and Reexports in the Form Received), Two (Parts and Components Reexports), or Three (Foreign-Produced Direct Product Reexports) (§ 736.2 (b)(1), (b)(2), or (b)(3) of the EAR). Such

items do not have an “X” in the appropriate cell on the Country Chart. If General Prohibitions Four through Ten (§ 736.2 (b)(4) of the EAR) through (b)(10) of the EAR) also do not apply, you must clear exports of such items by entering the symbol “NLR” in the appropriate place on the SED.

(2) *License Exception symbol.* You must enter on any required SED the letter code (e.g., LVS, TMP) of the License Exceptions under which you are exporting. In the case of License Exceptions LVS, GBS, and CIV, the ECCN of the item being exported must also be entered when an SED is required. Please refer to § 758.3 of the EAR for detailed information on use of SEDs.

(3) *License number.* If you are exporting under a license, enter the license number on the SED as required by § 758.3 of the EAR.

(b) *Step 28: Destination Control Statement.* You are required to enter an appropriate Destination Control Statement (DCS) on commercial documents in accordance with the DCS requirements of § 758.6 of the EAR. Exporters should review § 758.6 of the EAR and use the DCS as required. Reexporters and exporters from abroad should review § 752.6 for DCS requirements when using a Special Comprehensive License. Otherwise, DCS requirements do not apply to reexports and exports from abroad.

(c) *Step 29: Recordkeeping.* Records of transactions involving exports under any license or License Exception must be maintained in accordance with the recordkeeping requirements of part 762 of the EAR.

[61 FR 12740, Mar. 25, 1996, as amended at 61 FR 64274, Dec. 4, 1996]

### § 732.6 Steps for other requirements.

Sections 732.1 through 732.4 of this part are useful in determining the license requirements that apply to you. Other portions of the EAR impose other obligations and requirements. Some of them are:

(a) Requirements relating to the use of a license in § 758.2 of the EAR.

(b) Obligations of carriers, forwarders, exporters and others to take specific steps and prepare and deliver certain documents to assure that items subject to the EAR are delivered to the

destination to which they are licensed or authorized by a License Exception or some other provision of the regulations in § 758.4 through § 758.6 of the EAR.

(c) Duty of carriers to return or unload shipments at the direction of U.S. Government officials (see § 758.8 of the EAR).

(d) Specific obligations imposed on parties to Special Comprehensive licenses in part 752 of the EAR.

(e) Recordkeeping requirements imposed in part 762 of the EAR.

(f) Requirements of part 764 of the EAR to disclose facts that may come to your attention after you file a license application or make other statements to the government concerning a transaction or proposed transaction that is subject to the EAR.

(g) Certain obligations imposed by part 760 of the EAR on parties who receive requests to take actions related to foreign boycotts and prohibits certain actions relating to those boycotts.

### SUPPLEMENT NO. 1 TO PART 732—BXA’S “KNOW YOUR CUSTOMER” GUIDANCE AND RED FLAGS

#### “Know Your Customer” Guidance

Various requirements of the EAR are dependent upon a person’s knowledge of the end-use, end-user, ultimate destination, or other facts relating to a transaction or activity. These provisions include the non-proliferation-related “catch-all” sections and the prohibition against proceeding with a transaction with knowledge that a violation of the EAR has occurred or is about to occur.

(a) BXA provides the following guidance on how individuals and firms should act under this knowledge standard. This guidance does not change or interpret the EAR.

(1) *Decide whether there are “red flags”.* Take into account any abnormal circumstances in a transaction that indicate that the export may be destined for an inappropriate end-use, end-user, or destination. Such circumstances are referred to as “red flags”. Included among examples of red flags are orders for items that are inconsistent with the needs of the purchaser, a customer declining installation and testing when included in the sales price or when normally requested, or requests for equipment configurations that are incompatible with the stated destination (e.g., 120 volts in a country with 220 volts). Commerce has developed lists of such red flags that are not all-inclusive but are intended to illustrate the types